

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

H MORGAN HICKS,

Plaintiff,

v.

PRUDENTIAL INSURANCE
COMPANY OF AMERICA,

Defendant.

No. 2:21-cv-00436-RSM

STIPULATED MOTION TO FILE
THE ADMINISTRATIVE
RECORD UNDER SEAL AND
ORDER

NOTE ON MOTION CALENDAR:
May 19, 2021

For good cause, the parties respectfully move the Court to grant their stipulated motion to allow the Administrative Record to be filed under seal.

STIPULATED MOTION TO FILE THE ADMINISTRATIVE RECORD
UNDER SEAL

1. In light of distance and COVID-19 precautionary measures, the parties satisfied their meet and confer requirement by teleconference, conducted on May 11, 2021. The participants at this conference were: a) Jesse

1 Cowell, Attorney for Plaintiff; and b) Julie Kamps, Attorney for Defendant (*pro*
2 *hac vice*).

3 2. First, Plaintiff submits, and Defendant does not dispute for
4 purposes of this case only, that a motion to seal the Administrative Record
5 (“AR” or “Administrative Record”) is appropriate in this case, because it
6 involves a dispute over Plaintiff’s eligibility for long-term disability (“LTD”)
7 benefits under an employee welfare benefit plan governed by the Employee
8 Retirement Income Security Act, 29 U.S.C. §1001, *et seq.* (“ERISA”). Plaintiff
9 asserts that this LTD benefits case is analogous to Social-Security Appeals, in
10 that the Administrative Record contains highly sensitive medical information
11 and Plaintiff’s privacy interests far outweigh the public interest in access to the
12 files. Therefore, just as the public is limited to accessing files in Social-Security
13 Appeals under FRCP 5.2(c), Plaintiff asserts that this motion to file the AR
14 under seal is appropriate in this LTD benefits case. In the interest of efficiency,
15 and to avoid unnecessary motion practice, Defendant agrees to filing the AR
16 under seal in this matter. In doing so, Defendant does not waive its right to
17 assert in any other matter, ERISA or otherwise, that the AR should not be filed
18 under seal.

19 3. Second, the parties agree that a motion to seal is more economical,
20 from both a human and financial resource perspective, than the alternative of
21 redacting the Administrative Record. More specifically, the AR produced by
22 Defendant contains thousands of pages and is peppered throughout with
23 numerous references to Plaintiff’s social security number and date of birth,
24 which would plainly require considerable time and effort to redact. Further,
25 given Plaintiff’s assertion of the minimal public interest in accessing the highly
26 sensitive medical information of Plaintiff that comprises a significant portion of
the Administrative Record, the parties respectfully submit that the expense and

1 burden of redaction outweighs the more economical option of simply filing the
2 AR under seal in this matter.

3 4. Pursuant to LCR 5(g)(3)(A), the parties certify that:

4 A. The conferencing details noted above are true and correct.

5 B. The need to file the Administrative Record under seal was
6 discussed with particular emphasis on: 1) the sensitive nature of the
7 medical information contained therein; and 2) undue burdens implicated
8 by the alternative of redacting an Administrative Record numbering in
9 the thousands of pages.

10 C. Attempts to minimize the amount of material filed under seal
11 would be impractical and unduly burdensome, since the Administrative
12 Record is principally composed of either: 1) the highly sensitive medical
13 records of Plaintiff; or 2) discussion of such highly sensitive information in
14 the context of LTD benefits determinations. Further, the portions that
15 would need to be redacted if they are not filed under seal are peppered
16 over thousands of pages throughout the entire AR.

17 D. Redaction appears to be the only alternative to filing under
18 seal. Plaintiff asserts that filing under seal is the better alternative for the
19 reasons specifically given above. For purposes of this case only, Defendant
20 agrees to filing the Administrative Record under seal.

21 5. Pursuant to LCR 5(g)(3)(B), counsel provides the following
22 declaration briefly describing discussion that:

23 A. Plaintiff asserts that by close analogy, FRCP 5.2(c) provides
24 an applicable legal standard for filing the Administrative Record under
25 seal.

26 B. More specifically, just as public access is limited to the highly
sensitive medical information which permeates the files of Social-Security

1 Appeals under FRCP 5.2(c), Plaintiff asserts that the legitimate privacy
2 interest of Plaintiff in protecting highly sensitive medical information
3 within this LTD benefits case far outweighs any legitimate public interest
4 in free and unfettered access, thereby warranting the relief of the Court's
5 allowance to file the Administrative Record under seal.

6 C. In the interest of efficiency, and to avoid unnecessary motion
7 practice, Defendant agrees to filing the AR under seal in this matter. In
8 doing so, Defendant does not waive its right to assert in any other matter,
9 ERISA or otherwise, that the AR should not be filed under seal.

10 D. Plaintiff asserts that his highly sensitive medical information
11 would be unnecessarily available to public access, which could also create
12 irreparable harm by misuse of such information by private persons and
13 the publication of such information.

14 E. The less restrictive alternative of redaction is not sufficient,
15 for the unduly burdensome reasons noted above.

16 In conclusion, for the reasons provided, the parties respectfully move the
17 Court to grant the stipulated motion to file the AR under seal.

18
19 Respectfully submitted this 19th day of May, 2021.

20
21 ROY LAW GROUP

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s/ Julie M. Kamps

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Attorneys for Defendant

1 **ORDER**

2
3 Based on the Stipulated Motion to File the Administrative Record under
4 Seal, it is ORDERED that the stipulated motion is granted for good cause
5 shown and the parties shall now file the Administrative Record under seal.

6 Dated this 27th day of May, 2021.

7
8
9 The Honorable Ricardo S.
10 Martinez UNITED STATES
DISTRICT JUDGE

11 Presented by:

12
13 ROY LAW GROUP

14 By: s/ Jesse Cowell
15 Jesse Cowell, WSBA 50725

16 Attorney for Plaintiff

17 SEYFARTH SHAW, LLP

18 By: s/ Julie M. Kamps
19 Julie M. Kamps, IL Bar # 6286872
20 (appearing Pro Hac Vice)

21 By: s/ Helen McFarland
Helen McFarland, WSBA 51012

22 Attorneys for Defendant
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26

1 **CERTIFICATE OF SERVICE**

2 I certify that on May 19, 2021, I electronically filed the foregoing with the
3 Clerk of Court using the CM/ECF system.

4
5 DATED this 19th day of May, 2021.

6 s/ Jesse Cowell

7 Jesse Cowell, WSBA 50725

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13 jesse@roylawgroup.com

1 **ORDER**

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6 Dated this 27th day of May, 2021.

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8 The Honorable Ricardo S. Martinez
9 UNITED STATES DISTRICT JUDGE

10
11 Presented by:

12
13 ROY LAW GROUP

14 By: s/ Jesse Cowell
15 Jesse Cowell, WSBA 50725

16 Attorney for Plaintiff

17 SEYFARTH SHAW, LLP

18 By: s/ Julie M. Kamps
19 Julie M. Kamps, IL Bar # 6286872
(*appearing Pro Hac Vice*)

20 By: s/ Helen McFarland
21 Helen McFarland, WSBA 51012

22 Attorneys for Defendant
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